

MINUTES
SCOTTSDALE CITY COUNCIL
CITY COUNCIL MEETING
Tuesday, April 15, 2003

The Kiva
City Hall
Scottsdale, Arizona

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CALL TO ORDER (IN CITY HALL KIVA FORUM)

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Tuesday, April 15, 2003 in the Kiva, City Hall, at 5:17 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor Ned O'Hearn
Council Members David Ortega, Tom Silverman, Robert Littlefield,
Wayne Ecton, and Cynthia Lukas

Also Present: City Manager Jan Dolan
City Attorney David Pennartz
City Clerk Sonia Robertson

Pledge of Allegiance

Councilwoman Lukas led the audience in the Pledge of Allegiance.

Invocation - None

Presentations/Information Updates

Proclamation Recognizing City Volunteers

Mayor Manross read the proclamation recognizing city volunteers. Jacquie Murray, who has volunteered with the city for 11 years, accepted the proclamation on behalf of all the volunteers citywide.

Heritage Fund Check Presentation

Robert Baldwin, Recreational Trails Grant Coordinator for Arizona State Parks, presented the city with a check for \$189,851.00 from the Heritage Fund to be used for the development of two trailheads located in the Hidden Hills Community, the construction of approximately five miles of the Sunrise Trail from the trailheads, as well as a map/brochure. He explained that the two trailheads would be the first official accesses to the McDowell Sonoran Preserve.

Mayor Manross thanked Mr. Baldwin and explained that since 1991, Scottsdale has received \$2.2 million from the Heritage Fund to pay for projects such as Cholla Park, lighting sports fields, Cactus Road trail development and Eldorado Skate Park.

Appointment - Associate Judge – Orest Jejna

Mayor Manross acknowledged the diligent work of the Judicial Appointments Advisory Board. She explained that they have completed an extensive process including background and reference checking, citizen surveys, an interview, and a public hearing on Judge Jejna's reappointment.

COUNCILMAN SILVERMAN MOVED TO ACCEPT THE UNANIMOUS RECOMMENDATION OF THE ADVISORY BOARD TO REAPPOINT OREST JEJNA TO A SECOND TERM RUNNING FROM MAY 1, 2003 THROUGH MAY 1, 2005 AT A SALARY OF \$108,180. COUNCILMAN ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

Boards and Commissions

Vice Mayor O'Hearn identified the commission, the purpose of the board, and any special qualifications necessary for the open position(s) as appropriate for each board.

Historic Preservation Commission (1)

Vice Mayor O'Hearn opened the floor for nominations.

Councilwoman Lukas nominated Nancy Dallett

With no further nominations forthcoming, Vice Mayor O'Hearn closed the floor for nominations.

Nancy Dallett was appointed to the Historic Preservation Commission by a unanimous vote.

McDowell Sonoran Preserve Commission (3)

Vice Mayor O'Hearn opened the floor for nominations.

Councilwoman Lukas nominated Christine Kovach
Councilman Ortega nominated Arnold Roy
Mayor Manross nominated Erik Filsinger

With no further nominations forthcoming, Vice Mayor O'Hearn closed the floor for nominations.

Christine Kovach, Arnold Roy, and Erik Filsinger were unanimously appointed to the McDowell Sonoran Preserve Commission.

Planning Commission (3)

Vice Mayor O'Hearn opened the floor for nominations.

Councilman Ecton nominated Jeffrey Schwartz
Mayor Manross nominated Mark Soden
Councilman Ortega nominated Andrea Forman
Councilman Silverman nominated David Barnett
Councilman Ecton nominated Eric Hess

With no further nominations forthcoming, Vice Mayor O'Hearn closed the floor for nominations.

Jeffrey Schwartz, David Barnett, and Eric Hess were appointed to the Planning Commission by a majority vote. Council determined through an additional vote that **Eric Hess'** term would begin on May 1, 2003 while the other two appointments would be effective immediately.

Tourism Development Commission (2)

Vice Mayor O'Hearn opened the floor for nominations.

Councilman Silverman nominated Kenneth Goldfine

Councilman Ecton nominated Gerald Gleason

With no further nominations forthcoming, Vice Mayor O'Hearn closed the floor for nominations.

Kenneth Goldfine and Gerald Gleason were appointed to the Tourism Development Commission by a unanimous vote.

Public Comment

Billy Kirkland, 1809 N. 73rd Place, questioned why the City Council would vote to give the Ellman Companies \$42 million to build a Wal-Mart, Lows, and Sam's Club on their property.

Mike Manson, 8350 E. Lariat Lane, stated that Propositions 200 and 201 would have a serious fiscal impact on the city if approved. He urged the city to provide the citizens with more information.

Lee Davis, 363 W. Canary, Chandler, urged citizens to support Propositions 200 and 201 in May.

Shawndee Ambrosia, 3806 S. Seton Avenue, urged everyone to vote for Propositions 200 and 201.

Christina Canale, 6330 E. Delcoa Avenue, explained that none of the communities that terminated their contract with Rural Metro have regretted their decision. She urged people to support both firefighter initiatives.

Daniel Basinger, 29503 N. 107th Place, reported that the latest Hazardous Waste Collection Event was a success. He also reminded everyone that the Adopt-A-Road Program is scheduled for April and urged citizens to participate.

Minutes - REGULAR MEETINGS

March 17, 2003

March 18, 2003

COUNCILWOMAN LUKAS MOVED TO APPROVE THE REGULAR MEETING MINUTES FOR MARCH 17, 2003 AND MARCH 18, 2003. COUNCILMAN ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

CONSENT AGENDA

- ***1. **WITHDRAWN**
Kit Cat Lounge Liquor License

2. Bashas #129 Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a location transfer of a series 09 (liquor store) State liquor license located within a retail grocery store.

Location: 11755 N 136th St

Reference: 17-LL-2003

Staff Contact(s): Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, jefisher@ScottsdaleAZ.gov

3. Pure Fitness Use Permit

Request: Approve a conditional use permit for a health studio in a 25,000 +/-sq ft tenant space of a building located at 7330 E Shea Blvd, Suites 101 & 102 with Central Business District (C-2) zoning.

Location: 7330 E Shea Bl 101,102

Reference: 1-UP-2003

Staff Contact(s): Kira Wauwie AICP, Project Coordination Manager, 480-312-7061, kwauwie@ScottsdaleAZ.gov

4. Mountain View Park Final Plat

Request: Approve a Final Plat.

Location: Northwest corner of 96th Street & Mountain View

Reference: 25-PP-2002

Staff Contact(s): Bill Verschuren, Senior Planner, 480-312-7734, bverschuren@ScottsdaleAZ.gov

5. City of Scottsdale Well No. 123 Use Permit

Request: Approve a conditional use permit for a city well (municipal use) on a .17 +/- acre parcel located at the northeast corner of Scottsdale Road and East Princess Boulevard with Open Space (OS) zoning.

Location: Northeast corner of Scottsdale Rd & East Princess Blvd

Reference: 25-UP-2002

Staff Contact(s): Bill Verschuren, Senior Planner, 480-312-7734, bverschuren@ScottsdaleAZ.gov

6. Contract with Qwest Corporation for a dedicated telephone line that provides for sharing of freeway and local Intelligent Transportation System related data.

Request: Consider approval of Contract No. 2003-051-COS with Qwest Corporation, for \$23,416 per year, and increase the proposed budget for traffic signal lines in fiscal year 2003/04 by \$23,500 to cover the added expense. No additional budget is required for fiscal year 2003/04 for period of service April through June 2003.

Related Policies, References: Procurement Code; Resolution No. 4994, February 17, 1998; City Code, Chapter 17-21: Cooperate with other City officials in the development of ways and means to improve traffic conditions.

Staff Contact(s): Bruce Dressel, ITS Analyst, 480-312-2358, bdressel@ci.scottsdale.az.us

7. Rassner/Library and Scottsdale Community/Human Services Endowments.

Request: Consider approving the distribution of interest income from city's endowment program; including the recommendation from the Library Advisory Board for an award of \$20,000 to the library and the recommendation of the Human Services Commission for awards of \$1,000 to Concerned Citizens for Community Health, \$1,000 to Paiute Neighborhood Center, and \$1,000 to the Foundation for Senior Living Resolution.

Related references: Resolution # 6112.

Staff Contact(s): Sharyn Pennington, Budget/Operations Coordinator, (480) 312-7086, shap@scottsdaleaz.gov

8. Sole Source Purchase of 3M SelfCheck Machines for the Scottsdale Library System

Request: Consider authorization of a sole source purchase from 3M Library Systems for replacement of eight (8) self check out machines for use at four (4) Scottsdale library locations and one (1) outreach site at a total price of \$172,640.00.

Staff Contact(s): Debbie Tang, Special Projects/Facilities Manager, (480) 312-2040, dtang@scottsdaleAZ.gov for more information

9. Accept Arizona State Library State Grant-In-Aid construction grant for \$25,000 to bring Mustang Library lobby and restrooms in compliance with ADA

Request: The grant will be used to replace a portion of City funds budgeted for the Mustang Library ADA project. The project is budgeted in the Facilities Maintenance Department's FY 2002/03 operating budget for \$131,000. The project scope has been reduced and the total project cost is approximately \$94,000. The grant was anticipated and included in the approved FY 2002/03 Grants budget.

Related policies: the Americans with Disabilities Act, 1990.

Staff Contact(s): Please contact Debbie Tang, Special Projects Manager, 312-2040, dtang@ScottsdaleAZ.gov; Steve Arnold, Contracts Coordinator, 312-2181, stevearnold@ScottsdaleAZ.gov

10. WITHDRAWN

Amend the Recreational Land Use Agreement (RLUA) between the Bureau of Reclamation (BOR) and the City of Scottsdale.

11. Professional Services Agreement for Financial Advisor

Request: Authorize Professional Services Agreement No. 2003-047-COS with US Bancorp Piper Jaffray Inc. for Financial Advisor.

Staff Contact(s): Rebecca A. Eickley, Finance and Energy Manager, (480) 312-7084, reickley@ci.scottsdale.az.us

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, questioned the amount of money paid to Piper Jaffray for the previous contract. He cautioned that there might be a conflict of interest for Piper Jaffray if bonds are issued and urged the city not to let Piper Jaffray participate in underwriting any bonds that may be issued.

Mayor Manross closed public testimony.

12. Professional Services Agreement for Bond Counsel

Request: Authorize Professional Services Agreement No. 2003-048-COS with Snell & Wilmenr for Bond Counsel for financings to include Improvement Districts (Ids), General

Obligation (GO) Bonds, Water and Sewer Revenue (W & S) Bonds, Highway User Revenue Fund (HURF) Bonds, Municipal Property Corporation (MPC) Bonds, and Scottsdale Preserve Authority (SPA) Bonds.

Staff Contact(s): Rebecca A. Eickley, Finance and Energy Manager, (480) 312-7084, reickley@ci.scottsdale.az.us

13. Adoption of Notice of Intention to increase water and wastewater rates and establishment of May 19, 2003 as the date for a public hearing.

Request: Adopt Notice of Intention to set water and wastewater rates for fiscal year 2003/2004 and to establish May 19, 2003 as the date for a public hearing.

Staff Contact(s): Craig Clifford, Financial Services General Manager, (480) 312-2364, cclifford@ScottsdaleAz.gov

14. Gila River Indian Community Water Rights Settlement Agreement

Request: Adopt Resolution no. 6282, authorizing the execution of Agreement 2003-049-COS and Agreement 2003-050-COS and

Authorize execution of the Gila River Indian Community Water Rights Settlement Agreement (Agreement 2003-049-COS) and the Lease Agreement for CAP Water Among the City of Scottsdale, the Gila River Indian Community and the United States, as Trustee for the Gila River Indian Community (Agreement 2003-050-COS). The Settlement Agreement settles the water rights claims of the Gila River Indian Community, and the Lease Agreement provides a 100-year assured water supply of 12,000 acre-feet of CAP water to the City of Scottsdale.

Staff Contact(s): Beth Miller, Water Resources Advisor, (480) 312-5009, emiller@ci.scottsdale.az.us

15. Construction Bid Award for Scottsdale Road, Phase One, from Indian Bend to McCormick Parkway

Request: AUTHORIZE Construction Bid Award No. 03PB073 to Hunter Contracting Co., the lowest responsive bidder, at their total base unit price bid of \$7,491,359.22; AUTHORIZE an increase in budget authorization in the total amount of \$1,800,000 to CIP Account No. S2707 (Scottsdale Road – Indian Bend to Gold Dust) effective in Fiscal Year 2003/04;

AUTHORIZE depositing the following estimated payments to CIP Account No. S2707 from the Town of Paradise Valley and various utility companies for work to be performed under City of Scottsdale construction contracts:

- \$1,100,000.00 from the Town of Paradise Valley per C.O.S. Contract No. 96001A, underground conversion of 69 KV power lines, which was approved by Council on December 9, 2002.
- \$400,000.00 from Southwest Gas for trenching and related costs for system relocation and expansion.
- \$200,000.00 from Qwest Communications for system relocation and expansion.
- \$100,000.00 from COX Communications for system relocation.

AUTHORIZE estimated payments totaling \$2,500,000 to APS for this company's direct costs to install 69kV underground conversions, 69kV temporary relocations, 12kV underground conversions and new street light system construction for the entire length of this project.

The construction contract proposed for award by this action is the first of two major contracts planned to widen and reconstruct a 2-¾ mile length of Scottsdale Road between Indian Bend Road and Gold Dust Street. This contract includes the widening of a one-mile length of Scottsdale Road between Indian Bend Road and McCormick Parkway and includes a new bridge to be constructed over the Indian Bend Wash immediately south of the McCormick Parkway. The underground conduit system for the 69kV power lines, through this portion of the project, will also be installed as part of this contract and the existing overhead 69kV lines will be temporarily relocated along the east and west sides of Scottsdale Road. The second construction contract to complete the remaining 1 ¾ mile widening and reconstruction of Scottsdale Road is planned for award in April 2004.

Related Policies, References:

Intergovernmental Agreement (IGA) No. 96-0001 between City of Scottsdale (city) and Town of Paradise Valley (town) (Approved 2/5/96 by Scottsdale City Council).

Amendment to IGA No 96-001A which established responsibilities for under grounding of the existing 69kV electrical power line between the city and the town. (Approved 12/9/02 by Scottsdale City Council and approved 12/19/02 by Paradise Valley Town Council)

De-annexation Ordinance (Approved 11/7/02 by Paradise Valley Town Council and approved 12/9/02 by Scottsdale City Council).

Staff Contact(s): Alex McLaren, Construction and Design Director, (480) 312-7099, amclaren@ci.scottsdale.az.us; Dan Walsh, Project Manager, (480) 312-5248, dwalsh@ci.scottsdale.az.us

16. Contract Modification for Phase 2 Design of the Chaparral Water Treatment Plant Influent and Distribution Lines.

Request: Authorize Contract Modification to Engineering Services Contract No. 2002-073-COS-A with HDR Engineering, Inc., in the amount of \$1,375,559 for Phase 2 of the design of Chaparral Water Treatment Plant Inlet and Distribution Line Project.

Related Policies, References: Engineering Services Contract No. 2002-073-COS, approved by City Council on July 1, 2002.

Staff Contact(s): Doreen Song, P.E. Project Manager, (480)312-2367, dsong@scottsdaleaz.gov

17. REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 9

18. Acquire right-of-way/easements (ROW) for the widening of 96th Street from Shea Boulevard to Thunderbird Road

Request: Adopt Resolution No. 6285 authorizing the acquisition of various rights-of-way and easements from property located at 9598 E. Cactus Road, owned by Allan and Julie La Magna, at the total appraised value of \$117,611 plus approximately \$1,500 in closing costs for the 96th St. Improvements CIP project (Shea – Thunderbird Rd).

Related Policies, References:

- a. Resolution No. 6253 authorizing the initiation of negotiations for the acquisition of 16 various parcels of ROW from nine property owners for the 96th St. Improvements project (Shea-Thunderbird Rd).
- b. Cactus Corridor Equestrian Overlay District
- c. Bond 2000 CIP Project

Staff Contact(s): Marek Urbanek, Project Manager, (480) 312-2563, murbanek@ci.scottsdale.az.us;

Rhonda Thomas, Right of Way Agent, (480) 312-7847, Rthomas@ci.scottsdale.az.us

COUNCILMAN SILVERMAN MOVED TO APPROVE CONSENT ITEMS 2-18 WITH THE EXCEPTION OF 10 AND 17. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION

17. Contract for Legal Services in connection with City of Scottsdale v. Glenalden Homes, L.L.C., et al., Superior Court Case No. CV 99-13348

Request: Adopt Resolution No. 6280 authorizing the Mayor to execute Contract No. 2001-038A-COS, an outside counsel contract renewal in a maximum amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) with the law firm of GRAHAM & ASSOCIATES, LTD. for legal services regarding representation of the City of Scottsdale in the litigation entitled City of Scottsdale v. Glenalden Homes, L.L.C., et al., Superior Court Case No. CV 99-13348, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6280

Staff Contact(s): David A. Pennartz City Attorney, dpennartz@scottsdaleaz.gov
(480) 312-2405

In response to questions from Councilman Ecton, Attorney Pennartz explained that the requested money would be used for expenses, which would not include an appeal. If an appeal is necessary, the request for additional funding would be brought before Council as a separate item.

Attorney Pennartz confirmed for Councilman Littlefield that if the \$250,000.00 request were approved, the total would be \$1.3 million thus far. He further clarified that the case has extended over a four-year period. Bills for expert witnesses, etc. have been incurred. He stressed that the litigation has the potential to trim \$5 million off of the judgment and has been a hard-fought case. He recommended that the request be approved.

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, questioned the amount of money spent so far on the case and how much more in expenses is anticipated. He requested assurances that the settlement would be correctly allocated back to the McDowell Sonoran Preserve tax money. He also expressed concern that all legal fees associated with the preserve are correctly and accurately allocated to the McDowell Sonoran Preserve fund.

Attorney Pennartz assured Mr. Wurtz that direct costs associated with attorney fees are billed to the appropriate account. He noted, however, that his general time is not billed to the preserve account.

Leon Spiro, 7814 E. Oberlin Way, questioned why the city just doesn't accept the landowner's sale price like they did the last time.

Mayor Manross explained that this is a case of eminent domain; therefore, the landowner had made no offer.

Mayor Manross closed public testimony.

Vice Mayor O'Hearn questioned if the money requested would be paying bills that are already incurred. Attorney Pennartz explained that there is a contract balance that the bills are applied to. He stated that all the bills incurred to date have not yet been received. He stressed that it is difficult to determine an exact amount that will be needed for on-going legal issues.

Councilman Littlefield questioned if the bills in question have been incurred before Council authorized payment. Attorney Pennartz clarified that when the contract balance is being depleted, a request is brought before Council for additional funding if necessary. He noted that bills are still being incurred and presented since it is an on-going case. He confirmed that this practice is standard and lawful.

COUNCILMAN ECTON MOVED TO ADOPT RESOLUTION NO. 6280 AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 2001-038A-COS, AN OUTSIDE COUNSEL CONTRACT RENEWAL IN A MAXIMUM AMOUNT OF TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000.00) WITH THE LAW FIRM OF GRAHAM & ASSOCIATES, LTD. FOR LEGAL SERVICES REGARDING REPRESENTATION OF THE CITY OF SCOTTSDALE IN THE LITIGATION ENTITLED CITY OF SCOTTSDALE V. GLENALDEN HOMES, L.L.C., ET AL., SUPERIOR COURT CASE NO. CV 99-13348, AN EMINENT DOMAIN ACTION BROUGHT TO ACQUIRE REAL PROPERTY FOR MCDOWELL SONORAN PRESERVE. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

REGULAR AGENDA

19. Public Hearing on Scottsdale's Community Development Block Grant Fiscal Year 2003-2004 Annual Action Plan

Request: Solicit public testimony regarding the Fiscal Year 2003-2004 Annual Action Plan for the use of Community Development Block Grant (CDBG) funds in the amount of \$1,400,000; and the HOME Investment Partnerships Program (HOME) funds in the amount of \$423,892; and
Adopt Resolution No. 6274.

Related policies and references: City Council adopted Resolution No. 5501 on March 20, 2000 which authorized and adopted the City of Scottsdale's Consolidated Plan for general use of CDBG funding and HOME funds for Fiscal Years 2000/2004.

Staff Contact(s): Contact Mark Bethel, Community Assistance Manager (480)312-2309, mbethel@scottsdaleaz.gov

Mark Bethel provided a brief slide presentation, which is outlined below.

2003 Grant Allocations CDBG/HOME/General Fund Scottsdale Cares



Total Funding Allocations

■ Community Development Block Grant	\$1,469,000
■ HOME	\$ 423,892
■ General Fund	\$ 280,000
■ Scottsdale Cares	\$ 190,000



Funding Proposals Presented to Human Services Commission and Housing Board

	Proposals Presented	Funds Requested	Proposals Recommended for Funding	Amount Awarded
CDBG	16	\$1,366,672	16	\$1,189,000
HOME	1	\$ 400,000	1	\$ 400,000
General Funds	10	\$ 323,969	9	\$ 180,000
Scottsdale Cares	29	\$ 343,152	18	\$ 190,000
Total	56	\$ 2,433,793	44	\$ 1,959,000

Program Benefit Certification

-All recommended activities benefit Scottsdale residents either directly or, in the case of homeless programs, as a proportional share of our part of the regional population.



Recommendation for CDBG

■ Public Services	\$ 210,000
■ Youth, Domestic Violence Victims, Seniors, Disabled and Homeless.	
■ Housing Rehabilitation	\$ 637,760
■ Three programs	
■ Emergency Repair Program - Contract prior to July 1 st	
■ Housing Services	\$ 266,240
■ 1 st Time Homebuyer Program	
■ Public Facilities	\$ 75,000
■ Community Bridges (EVAC) – Transitional Redevelopment Center in Mesa	
■ Administration	\$ 280,000



Recommendation for HOME

■ Acquisition/Rehabilitation	\$300,000
Community Services of Arizona – acquire and rehab at least 8 units of rental housing	
■ Affordable Housing	\$100,000
Local HOME match from General Fund for CSA acquisition	
■ Administration	\$ 26,493
■ Not Allocated	\$ 97,399

General Fund Budget

-Public Services	\$180,000
-Senior Services	
-Legal Services	
-Domestic Violence Shelter Services	
-Regional Shelter Services	

Scottsdale Cares

-Public Services	\$190,000
-Persons with Disabilities	
-Seniors	
-Domestic Violence Victims	
-Families in Crisis	
-Homeless Families	

Chairperson Diane Fausel presented the following information.

Human Services Commission Chairperson – Diane Fausel

- Funding Process
- Highly Competitive (\$2.43m requested vs. \$1.96m available)
- Many good applications don't get funded
- Thank You
- Human Services Commission
- Housing Board – heard Housing Proposals

Council Action

- Public Comments
- Staff and the Human Services Commission request adoption of a resolution to accept CDBG and HOME funds and award contracts for the recommended services.

Mayor Manross noted that this public hearing is the final step in the process as Council considers the recommendations of the commission. She thanked the commission for their efforts and recommendations. Mayor Manross noted that no public comment cards were received for this item.

Councilman Orgeta and Councilwoman Lukas also thanked the commission for their hard work.

Councilman Silverman noted that the Scottsdale Cares Program is a worthwhile program, which is easily supported by citizens by checking a box on their utility bills.

COUNCILMAN ORTEGA MOVED TO ADOPT RESOLUTION NO. 6274. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

20. Pueblo Poquito Abandonment

Request: Approve the abandonment of a certain portion of the north 10 feet public right-of-way for Mountain View Road, a 20 feet wide section of 123rd Street public right-of-way including a 46 feet radius cul-de-sac, and a 33 feet General Land Office patent roadway easement along the 123rd Street alignment. 123rd Street will change from a public to a private street.

Location: 123rd Street & Mountain View Road

Reference: 11-AB-2002, Resolution No. 6268

Staff Contact(s): Pete Deeley, Project Coordination Manager, 480-312-2554, pdeeley@ScottsdaleAZ.gov

NOTE: The presentation and discussion for items 20 and 21 were combined since they were closely related. Please see item 21 for additional information.

COUNCILWOMAN LUKAS MOVED TO APPROVE THE ABANDONMENT OF A CERTAIN PORTION OF THE NORTH 10 FEET PUBLIC RIGHT-OF-WAY FOR MOUNTAIN VIEW ROAD, A 20 FEET WIDE SECTION OF 123RD STREET PUBLIC RIGHT-OF-WAY INCLUDING A 46 FEET RADIUS CUL-DE-SAC, AND A 33 FEET GENERAL LAND OFFICE PATENT ROADWAY EASEMENT ALONG THE 123RD STREET ALIGNMENT. 123RD STREET WILL CHANGE FROM A PUBLIC TO A PRIVATE STREET. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

21. Pueblo Poquito Replat

Request: Approve a replat of Pueblo Poquito Final Plat, a 6-lot subdivision.

Location: Northeast corner of Mountain View Road & 123rd Street

Reference: 10-PP-1998#2

Staff Contact(s): Al Ward, Senior Planner, 480-312-7067, award@ScottsdaleAZ.gov

Kroy Ekblaw introduced items 20 and 21 in one presentation since the items are closely related. His presentation and comments are outlined below.

**Abandonment - Case 11-AB-02 &
Replat of Pueblo Poquito - Case 10-PP-98#2**

- Abandon
 - 10 feet of the Mountain View Road
 - 20 feet of 123rd Street (including cul-de-sac),
 - 33 feet (GLO) patent roadway easement.
- Replat
 - Requirement of abandonment Case 11-AB-2002.
 - Resolves issues between two property owners.
 - 123rd Street becomes a private street.

Agreement of Property Owners

- This request is initiated to resolve adjoining property owners issues related to 123rd Street improvements.
 - Involved property owners, their legal counsel and city staff.
 - Agreement included:
 - Quitclaiming of property,
 - Relocation of improvements including walls,
 - and replatting of the Pueblo Poquito subdivision.
 - Accomplishes agreed solution to construct 123rd Street:
 - 123rd Street becomes private street,
 - Eliminating 300 feet of public street
 - and turn-around area is moved south to Mountain View Road.

Department Issues Checklist

- City Departments concur with this abandonment request (transportation, trails, public utilities, emergency services, water/sewer, preservation, comprehensive planning, drainage)
 - Adequate turn-around to enable vehicles to return to Mountain View Road.
 - A 10 foot public trail easement is being maintained over the subject 10 foot Mountain View Road right-of-way.
 - Replat maintains trail easements in compliance with City Trails Master Plan.(Along Mountain view & east property line)

Staff Recommendation

- ✓ Planning Commission Recommends Approval of the Abandonment 5-2
- ✓ Staff recommends approving this abandonment subject to:
 - A 10 foot trail easement over the subject Mountain View Road right-of-way.
 - A replat of the Pueblo Poquito subdivision.
- ✓ Staff recommends approving the Replat of Pueblo Poquito as proposed

Mayor Manross opened public testimony.

Leon Spiro, 7814 E. Oberlin Way, questioned why the GLO easements aren't shown on the plat plan that was presented to the city for consideration. He noted that the question should be asked to the surveyor of the property. He also asked if the city plans to issue a building permit for the easement. He cautioned that doing so would violate public rights and might open the city up to a liability issue. He pointed out that this property is an assemblage of GLO properties. He requested clarification on the property boundaries and wondered if the easements were ever abandoned. He explained that there is an 8' wall that is right on the property line and questioned if Mr. Burke had a permit to erect the wall. He stressed his opinion that abandoning or building on a GLO easement would present a possible legal challenge. He stated his belief that the city cannot keep abandoning the city's interest and then allow people to build on the easements without the city being liable.

Mayor Manross closed public testimony.

In response to questions from Councilman Littlefield, Kroy Ekblaw explained that the trail has been located along Mountain View following the extreme edge of the site. He also clarified that a wall within the subdivision will be removed.

Mayor Manross questioned if the site plan should reflect the GLO easements. Mr. Ekblaw explained that they were abandoned in 1991; therefore, they would no longer be required on the plat plan.

COUNCILMAN SILVERMAN MOVED TO APPROVE A REPLAT OF PUEBLO POQUITO FINAL PLAT, A 6-LOT SUBDIVISION LOCATED ON THE NORTHEAST CORNER OF MOUNTAIN VIEW ROAD & 123RD STREET. (10-PP-1998#2) COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

Public Comment

Leon Spiro, 7814 E. Oberlin Way, read into record (copy attached) of the paperwork for a court case dealing with a GLO easement issue (Case No. CV99-14250). He suggested that the city request an opinion from the State Attorney General regarding the city's practice of abandoning its rights associated with GLO easements and issuing building permits for construction on the abandoned easement.

City Manager's Report - None

Mayor and Council Items - None

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 6:40 P.M.

SUBMITTED BY:

Ann Eyerly, Council Recorder

REVIEWED BY:

Sonia Robertson, City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 15th day of April 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this _____ day of April 2003.

SONIA ROBERTSON
City Clerk